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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/789,224	03/01/2004	Michael Walter Dinda	BGN1360	7971
34356	7590	04/05/2006	EXAMINER LABBEES, EDNY	
ASHKAN NAJAFI, P.A. 6817 SOUTHPOINT PARKWAY SUITE 2301 JACKSONVILLE, FL 32216			ART UNIT 2612	PAPER NUMBER

DATE MAILED: 04/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/789,224

Applicant(s)

DINDA, MICHAEL WALTER

Examiner

Edny Labbees

Art Unit

2612

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on amendment filed on 3/14/2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 3/01/2004.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date: \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

1. In response filed 3/14/2006, claims 1-8 are pending.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 1, 6 and 8 are rejected under 35 U.S.C. 112, first paragraph, as based on a disclosure, which is not enabling. In the specification, applicant states, " the accelerating mode has a vacuum/electrical pressure level above a predetermined limit and the non-accelerating mode has a vacuum/electrical pressure level below the predetermined limit". However, what the applicant claims is the opposite, wherein the accelerating mode has a vacuum/electrical pressure level below the predetermined limit and the non-accelerating mode having a vacuum pressure level above a predetermined limit. critical or essential to the practice of the invention, but not included in the claim(s) is not enabled by the disclosure. See *In re Mayhew*, 527 F.2d 1229, 188 USPQ 356 (CCPA 1976). In addition, Examiner will interpret the claims with regards to what is disclosed in the specification.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jones (US 6,147,599) in view of Epstein (US 2003/0197606).

Regarding Claim 1, Jones discloses *Deceleration Warning System With Self-Purging Pressure Control* that has the following claimed subject matters:

The claimed battery is met by the battery (unlabeled); the claimed acceleration / non-acceleration modes is met by acceleration / non-acceleration modes (Col. 5, Lns 40-49); light switch is met by indicating light (unlabeled); the vacuum switch (V) of Jones connects to the intake duct and will close when the intake duct pressure is reduced significantly indicating vehicle deceleration; thus activating a deceleration warning signal lights visible to the following traffic, see Col. 5, Lns 35-48. However, Jones does not specifically disclose the indicator lamp will flash as claimed. It is well known in the art to provide additional visual notification to the following vehicle that the leading vehicle is slowing down by flashing the lights and Epstein teaches such feature. Epstein teaches a *Vehicle Rear Light Warning System* with a deceleration warning system which flashes when detecting the vehicle being decelerated, see paras [0038 0043]. Therefore, in the same field of endeavor, it would have been obvious to one having ordinary skill in the art at the time of the invention was made to incorporate the flashing light taught by

Epstein into the system of Jones in order to provide more comprehensive notification to the driver of the following vehicle.

Regarding Claim 2, the claimed vacuum switch is met by the vacuum switch (V) connected to the intake duct in Jones, see Col. 5, Lns 45-48.

Regarding Claim 3, Jones teaches a system where two electric leads (38) connect to the switch to the vehicle wiring system (see Col. 5 Lns 32-34). Furthermore, one of ordinary skill in the art would recognize that the switch could be either a magnetic or an electrical switch depending on the users preference.

Regarding Claim 4, the claimed device in which a switch is disposed within an engine compartment is met by the vacuum switch (V) of Jones is connected to an intake duct (see Col. 5, Lns 40-48). Furthermore, Examiner takes Official Notice that both the concept and the advantages of providing a light in the rear of the vehicle relative to the trunk are well known and expected in the art. It would have obvious to one of ordinary skill in the art at the time the invention was made because brake light is routinely installed in the trunk compartment for the purpose of clear viewing for the following traffice.

Regarding Claim 5, the claimed device in which a lens is connected to the first vehicle providing additional vehicle notification is met by Epstein invention that the warning light of the system be a different color so it can improve the effectiveness of the warning system (see paras [0035]).

Regarding Claim 6, the claim is interpreted and rejected as claim 1 stated above.

Regarding Claim 7, the claim is interpreted and rejected as claim 5 stated above.

Regarding Claim 8, the claim is interpreted and rejected as claims 1, 4 and 5.

### **Conclusion**

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Biggs, *Vehicle Speed Safety Signal System*, (US 3,911,393)

Gearey, *Early Warning Indicator For a Braking System*, (US 4,916,431)

Booth, *Pressure Change Responsive Sensor and Related Vacuum Operable Switch Assembly*, (US 4,219,710)

Hawkins, *Vehicle Acceleration and Deceleration indicator*, (US 3,711,828)

Furness, *Early Warning Brake Light System*, (US 5,589,817)

Miller, *Vehicle Deceleration Warning Apparatus*, (US 4,959,634)

L.T. LEE, *Automotive Deceleration Signal System* (US 3,478,312)

### **Response to Arguments**

7. Applicant's arguments with respect to claims 1-8 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Edny Labbees whose telephone number is (571) 272-2793. The examiner can normally be reached on M-F: 7:00 - 3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey A. Hofsass can be reached on (571) 272-2981. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Edny Labbees  
3/23/06



JEFFERY HOFSAASS  
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